



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2018-0224; FRL-9990-47-Region 5]

**Designation of Areas for Air Quality Planning Purposes; Ohio;
Redesignation of the Lake County Sulfur Dioxide Nonattainment
Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to redesignate the Lake County sulfur dioxide (SO₂) nonattainment area from nonattainment to attainment. EPA is also proposing to approve Ohio's maintenance plan, which Ohio submitted on April 9, 2018. EPA has approved Ohio's State Implementation Plan (SIP) for Lake County, and the air quality in the area is meeting the SO₂ standard.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2018-0224 at <http://www.regulations.gov> or via email to Blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting

comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background and redesignation requirements
- II. Determination of attainment
- III. Ohio's SIP
- IV. Permanent and enforceable emission reductions
- V. Requirements for the area under section 110 and part D
- VI. Maintenance plan
- VII. What action is EPA taking?
- VIII. Statutory and Executive Order reviews.

I. Background and redesignation requirements

In 2010, EPA established a revised primary SO₂ national ambient air quality standard (NAAQS) of 75 parts per billion (ppb) (75 FR 35520, June 22, 2010). EPA designated the Lake County area as nonattainment for the 2010 SO₂ NAAQS on August 5, 2013 (78 FR 47191) based upon air quality monitoring data for calendar years 2009–2011. The Lake County nonattainment area is comprised of the entirety of Lake County, Ohio.

Ohio was required to prepare a nonattainment plan that would provide for attainment of the NAAQS by the SO₂ attainment date of October 4, 2018. The plan must also meet the additional requirements of sections 172(c) and 191–192 of the CAA. Ohio

submitted its plan on April 3, 2015, and supplemented it on October 13, 2015, and on March 13, 2017. EPA approved the Lake County nonattainment plan on February 14, 2019 (84 FR 3986).

Under CAA section 107(d)(3)(E), there are five criteria which must be met before a nonattainment area may be redesignated to attainment.

1. EPA has determined that the relevant NAAQS has been attained in the area.
2. The applicable implementation plan has been fully approved by EPA under section 110(k).
3. EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the SIP, Federal regulations, and other permanent and enforceable reductions.
4. The State has met all applicable requirements for the area under section 110 and part D.
5. EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A of the CAA.

II. Determination of attainment

The first requirement for redesignation is to demonstrate that the standard has been attained in the area. As stated in EPA's April 2014 "Guidance for 1-Hour SO₂ Nonattainment Area SIP

Submissions," for SO₂, there are two components needed to support an attainment determination: a review of representative air quality monitoring data, and a further analysis, generally requiring air quality modeling, to demonstrate that the entire area is attaining the applicable standard, based on current actual emissions or the fully implemented control strategy. Ohio has addressed both components.

Under EPA regulations at 40 CFR 50.17, the SO₂ standard is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of one-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50 at all relevant monitoring sites in the subject area. EPA has reviewed the ambient air monitoring data for the Lake County nonattainment area. The Lake County nonattainment area has two SO₂ monitoring sites, located in Painesville and Eastlake in northern Lake County. This review addresses air quality data collected from 2015 through 2017, which includes the most recent three years of complete, quality-assured data. All data considered are certified and recorded in EPA's Air Quality System database. Ohio has committed to continue monitoring for SO₂ at these locations.

Table 1 shows the 99th percentile results and three-year

average design value for the Lake County nonattainment area monitors for 2015-2017. The overall 2015-2017 design value for Lake County is 66 ppb, which is below the SO₂ standard.

Therefore, Ohio has demonstrated that Lake County's SO₂ monitors show attainment. Preliminary data for 2018 indicate that the area is continuing to attain the SO₂ standard.

Table 1. Monitoring data for the Lake County nonattainment area for 2015-2017.

Site ID	Location	Year and 99 th percentile value (ppb)			Average 2015-2017 (ppb)
		2015	2016	2017	
39-085-0003	Eastlake, Lake County	36	10	5	17
39-085-0007	Painesville, Lake County	89	80	29	66

Regarding the requirement for Ohio to demonstrate that the entire area is attaining the SO₂ standard, Ohio referred to the dispersion modeling analysis which was submitted on April 3, 2015, as part of its nonattainment plan. This analysis demonstrated that revised SO₂ emission limits in Painesville and concurrent permanent SO₂ emission reductions in Eastlake would provide for attainment. Ohio has confirmed that the modeled facilities are currently in full compliance with their emission limits, so that current actual emissions are at or below the levels Ohio used in its modeling analysis. The modeling

analysis was discussed in detail in the August 21, 2018 (83 FR 42235) notice of proposed rulemaking for the Lake County SO₂ nonattainment SIP. EPA approved the Lake County nonattainment plan on February 14, 2019 (84 FR 3986). EPA proposes to find that this modeling analysis addresses the CAA requirements for redesignation.

III. Ohio's SIP

On October 11, 2018 (83 FR 51361), EPA approved revisions to Ohio's SO₂ SIP, including emission limits which were demonstrated to provide for attainment in Lake County. On February 14, 2019 (84 FR 3986), EPA approved Ohio's nonattainment SIP for Lake County, including a finding that Ohio had satisfied requirements for providing for attainment of the SO₂ standard in Lake County. Ohio has adopted its SO₂ SIP regulations, including those which cover Lake County, at Ohio Administrative Code (OAC) 3745-18, and Ohio has shown that it maintains an active enforcement program to ensure ongoing compliance. Ohio's new source review/prevention of significant deterioration program will address emissions from new sources.

IV. Permanent and enforceable emission reductions

For an area to be redesignated, the state must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. The FirstEnergy

Generation, LLC, Eastlake Plant (Eastlake plant), located in Eastlake, Ohio, permanently shut down its coal-fired boilers as of April 2015. The boiler retirement provided a decrease of 48,300 tons per year (tpy) from 2011 actual emissions. Ohio has removed the authority to operate the retired units from the Eastlake plant's federally enforceable State operating permit. The Eastlake plant cannot begin to use its large boilers again without applying for a new operating permit. Therefore, EPA proposes to accept this boiler retirement as a permanent and enforceable emission reduction.

Ohio has implemented new emission limits at OAC 3745-18-49(F) for the Painesville Municipal Electric Plant (Painesville plant) in Painesville, Ohio. The new limits for the Painesville plant provide for at least a 2,080 tpy decrease from 2011 actual emissions and an approximate 90 percent decrease from the plant's previously allowable emissions. EPA approved these new limits into Ohio's SIP on October 11, 2018 (83 FR 51361), which renders the limits federally enforceable, and Ohio has confirmed that the Painesville plant is currently complying with the limits.

The design value for Lake County at the time of its nonattainment designation was 157 ppb, with the highest monitored values found at the Painesville monitor (39-085-0007).

More recent monitoring data in Lake County indicates that ambient SO₂ levels improved after the Eastlake plant closed its large boilers in April 2015, and after the Painesville plant's emissions dropped in 2016 to approximately a tenth of their 2011 level, as the Painesville plant prepared for the January 2017 compliance date of its new emission limits. The current design value for Lake County (2015-2017) is 66 ppb, with the highest measured values found at the Painesville monitor. This design value demonstrates attainment of the SO₂ NAAQS. EPA proposes to find that the improvement in air quality in Lake County can be attributed to permanent and enforceable emission reductions at the Eastlake and Painesville plants.

V. Requirements for the area under section 110 and part D

Ohio has submitted information demonstrating that it meets the requirements of the CAA for the Lake County nonattainment area. EPA approved Ohio's infrastructure SIP for SO₂ on August 14, 2015 (80 FR 48733). This infrastructure SIP approval confirms that Ohio's SIP meets the requirements of CAA section 110(a)(1) and 110(a)(2) to contain the basic program elements, such as an active enforcement program and permitting program.

Section 191 of the CAA requires Ohio to submit a part D SIP for the Lake County nonattainment area by April 4, 2015. Ohio submitted its part D SIP on April 3, 2015 and supplemented it on

October 13, 2015 and on March 13, 2017. The SIP included a demonstration of attainment and revised emission limits for the Painesville plant. EPA approved the Lake County nonattainment plan on February 14, 2019 (84 FR 3986).

This rulemaking concluded that Ohio satisfied the various requirements under CAA section 110 and part D for the Lake County SO₂ nonattainment area. For example, EPA concluded that Ohio satisfied requirements for an attainment inventory of the SO₂ emissions from sources in the nonattainment area (required under section 173(c)(3)), reasonably available control measures (RACM) (required under section 173(c)(1)), and reasonable further progress (required under section 173(c)(2)).

Section 176(c) of the CAA requires States to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement,

and enforceability that EPA promulgated pursuant to its authority under the CAA. On August 20, 2014, Ohio submitted documentation establishing transportation conformity procedures in its SIP. EPA approved these procedures on March 2, 2015 (80 FR 11133). EPA is proposing to find that Ohio has satisfied the applicable requirements for the redesignation of the Lake County nonattainment area under section 110 and part D of title I of the CAA.

VI. Maintenance plan

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future one-hour violations. Specifically, the maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification

of continued attainment, and a contingency plan. Ohio's April 9, 2018 redesignation request contains its maintenance plan, which Ohio has committed to review eight years after redesignation.

Ohio submitted an attainment emission inventory which addresses the 2011 base year emissions of over 52,000 tpy and projections of future emissions, for point, area, and mobile sources. While the attainment date for Lake County was October 4, 2018, Ohio's April 9, 2018 redesignation request chose 2016 as the attainment year for its maintenance plan emission inventory, because in 2016, significant SO₂ emission reductions occurred at the Eastlake and Painesville plants, and 2016 was one of the years contributing to the 2015-2017 design value which demonstrated Lake County's achievement of attainment of the SO₂ NAAQS. The attainment year inventory included actual reductions due to the boiler retirements at the Eastlake plant and actual reductions at the Painesville plant (as it was approaching full required compliance with the plant's expected revised limits). Total SO₂ emissions in Lake County for the attainment year were 483 tpy. Ohio projected emissions for an interim future year, 2023, and the maintenance year, 2030.

Ohio projected that total SO₂ emissions in Lake County in the applicable years would be 433 tpy. This large reduction in

emissions since the base year is expected to be sufficient to maintain the SO₂ standard in Lake County.

Ohio's maintenance demonstration consists of the nonattainment SIP air quality analysis which demonstrated that the emission reductions now in effect in Lake County will provide for attainment of the NAAQS. The permanent and enforceable SO₂ emission reductions described above ensure that Lake County emissions will be equal to or less than the emission levels which were evaluated in the air quality analysis, and Ohio's enforcement program will ensure that the Lake County SO₂ emission limits are met continuously.

For continuing verification, Ohio has committed to track the emissions and compliance status of the major facilities in Lake County so that future emissions will not exceed the attainment inventory. All major sources in Ohio are required to submit annual emissions data, which the state uses to update its emission inventories as required by the CAA. Ohio has also committed to continue ambient SO₂ monitoring in Lake County to verify attainment of the NAAQS.

The requirement to submit contingency measures in accordance with section 172(c)(9) can be adequately addressed for SO₂ by the operation of a comprehensive enforcement program which can quickly identify and address sources that might be

causing exceedances of the NAAQS level. Ohio's enforcement program is active and capable of prompt action to remedy compliance issues or NAAQS exceedances. In particular, Ohio's April 9, 2018 redesignation request submittal discusses its two-tiered plan to respond to increasing SO₂ concentrations or new exceedances of the SO₂ NAAQS in the maintenance area. Ohio commits to study SO₂ emission trends and identify areas of concern and potential additional measures, particularly where an annual average 99th percentile maximum daily one-hour SO₂ concentration of 79 ppb or greater occurs. In the case of a two-year average of 76 ppb or greater occurring in the maintenance area, Ohio will assess the situation and consider additional control measures which can be implemented quickly. Ohio has the authority to expeditiously adopt, implement and enforce any subsequent emissions control measures deemed necessary to correct any future SO₂ violations. Ohio commits to adopt and implement such corrective actions as necessary to address trends of increasing emissions or ambient impacts. The public will have the opportunity to participate in the contingency measure implementation process. EPA proposes to find that Ohio has addressed the contingency measure requirement. Further, EPA proposes to find that Ohio's maintenance plan adequately addresses the five basic components

necessary to maintain the SO₂ standard in the Lake County nonattainment area.

VII. What action is EPA taking?

In accordance with Ohio's April 9, 2018 request, EPA is proposing to redesignate the Lake County nonattainment area from nonattainment to attainment of the SO₂ NAAQS. Ohio has demonstrated that the area is attaining the SO₂ standard, and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the nonattainment area. EPA is also proposing to approve Ohio's maintenance plan, which is designed to ensure that the area will continue to maintain the SO₂ standard.

VIII. Statutory and Executive Order reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by

the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Environmental protection, Environmental protection, Air

pollution control, National parks, Wilderness areas.

Dated: February 21, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

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